



HYDERABAD DECLARATION

Indian Democracy at Work: Rule of Law

28th February 2021

Rule of law is the bedrock of constitutional governance and democratic society. Well-functioning rule of law institutions in a society would lead to a climate of safety and security for all citizens while simultaneously providing universal access to a fair and effective justice system. In India, although we have normative rule of law, in practice there are serious, and often crippling distortions. The criminal justice system is fraught with ineffective and archaic police, feeble prosecution, cumbersome and dilatory procedures, and inadequate judicial capacity. The ponderous civil justice system has vitiated public trust in justice delivery and produced a private industry of justice for settling disputes. Protection of individual rights, enforcement of contracts, and mutual trust are critical requirements to promote entrepreneurship, investment, job creation, and economic growth. It has long been recognised that our institutions of rule of law warrant immediate attention. If we perpetuate status quo, our society faces two grave dangers: collapse of order and deceleration of growth.

Over the course of the past nine days, broad consensus was reached upon a set of meaningful, well-thought out reforms that can go a long way in restoring public faith in the justice system and ensuring public order and safety:

1. The police force needs to be strengthened with adequate personnel to effectively meet the growing challenges of a modern society and enhance public trust in police, with a proportion of officers embedded in the community to promote communication and collaboration with the citizenry.
2. A professional course in policing must be developed as a mandatory requirement at the entry level for effective training, to facilitate specialized and efficient functioning of the police force.



3. Forensic infrastructure needs to be scaled up to meet present day requirements, with adequate facilities available at each administrative level - the police circle, the subdivision, the district and the state, as well as major urban centers based on the population, crime rate, and nature of crimes.
4. An independent, well-equipped, and accountable crime investigation agency needs to be created, separate from the law and order department, to investigate crimes above a certain threshold, such as, crimes punishable by a maximum of 3 years of imprisonment.
5. A strong system of prosecution, at the district level, must be instituted such that the competence, stature of prosecution, independence, public trust and coordination of investigator, prosecutor and the judge are assured.
6. Criminal Procedural Laws must be amended to rationalise and simplify trial procedures, ensure effective investigation with transparency and accountability, protect the rights of victims, enhance the role of the judge in the trial process, and recognize non-custodial punishments when appropriate.
7. Measures to reform the civil justice system must be based on an empirical analysis of both the supply and demand side of the ecosystem. On the supply end, increasing the judicial resources is necessary. The demand side of the spectrum calls for limiting the scope for appeals, adjournments, and interim orders, and introducing a case management system to ensure speedy and efficient trial through mechanisms such as a sunset clause on interim orders and 'outcome date certainty'.
8. Adequate resources, including more, well-trained judges and sufficient physical infrastructure, must be allocated and effectively utilized to make the judiciary accessible to the ordinary citizens, in terms of proximity, cost of litigation, and summary disposal of cases. In order to achieve this, local courts may be set up both in rural and urban areas.
9. The efficiency and efficacy of the District Courts and the Constitutional Courts can be enhanced by setting up a robust court administration system, including appointment of highly competent judicial managers and judicial clerks, allowing judges to focus on matters of adjudication and improving professionalism in the administrative functions.



10. The Constitutional Courts must be strengthened by limiting their jurisdiction to their primary role, that is the interpretation of the Constitution and substantial questions of law. This may be achieved by setting up Permanent Constitutional Benches in courts, reducing the number of appeals and revision petitions, and prioritizing clearing the current backlog. Ad hoc judges may be appointed according to Article 224A of the Constitution to dispose of the backlog.
11. There is a need to attract best talent into the judiciary at the Trial Court level and the Constitutional Courts. Therefore, remuneration for judges, the service conditions and the prestige of office, all should be significantly enhanced to make judgeship aspirational for bright young lawyers. A nationwide competitive, meritocratic recruitment with an assured fast track for elevation based on performance would go a long way in attracting talent.
12. A permanent mechanism for ensuring judicial standards and accountability in the higher courts must be established to address issues of misconduct. Guidelines for the same have already been laid down in the Judicial Standards and Accountability Bill 2010, which lapsed in 2012.